

**Before the
Federal Communications Commission
Washington, D.C. 20554**

<i>In the Matter of</i>)	
)	
Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band)	PS Docket No. 06-229
)	PS Docket No. 06-150
)	
NPSTC Broadband Task Force and Public Safety Spectrum Trust Technical Recommendations for 700 MHz Public Safety Broadband Deployments)	DA 10-458

REPLY COMMENT OF THE CITY OF CHARLOTTE, NORTH CAROLINA

The City of Charlotte, North Carolina (Charlotte) submits this reply to comments addressing reports submitted by the National Public Safety Telecommunications Council (NPSTC) Broadband Task Force (BBTF) and the Public Safety Spectrum Trust (PSST). The PSST holds the license to 10 MHz in the 700 MHz band segment as the Public Safety Broadband License (PSBL).¹ The Commission's request for comment is directed to elements of the BBTF Report relating to the technical aspects of the operation and interoperation of the regional 700 MHz networks the BBTF contemplates.²

Charlotte has filed a waiver petition to operate a regional broadband network in the 700 MHz band. The important work of NPSTC's BBTF referenced in the *Public Notice*, as well as its Standards of Requirements (SOR) for the 700 MHz band,³ serve as a critical commencement point for the Commission to ensure public safety interoperability and effective communications

¹ Section 90.528 of the Commission's rules.

² Comment Sought on NPSTC Broadband Task Force and Public Safety Spectrum Trust Technical Recommendations for 700 MHz Public Safety Broadband Deployments, *Public Notice*, DA 10-458, WT Docket No. 06-150; PS Docket No. 06-229 (March 17, 2010).

³ *700 MHz Statement of Requirements for Public Safety (SoR)*, National Public Safety Telecommunications Council, <http://www.npstc.org/statementOfRequirements.jsp>

in the 700 MHz band. Charlotte endorses the Commission's path to move this work and comments into its Emergency Response and Interoperability Center (ERIC) and the associated advisory council as proposed by its National Broadband Plan.⁴

The 700 MHz Public Safety Segment

Pending before the Commission are 18 waiver petitions by public safety agencies to deploy and operate regional advanced broadband wireless networks dedicated to public safety communications in the 763-768/793-798 MHz band segment. The petitions seek to operate regional networks separate from the PSBL. The PSBL was assigned a nationwide license for this segment on the basis of a public private partnership with the winner of the D Block auction. The public private partnership was intended to construct and deploy a public safety nationwide broadband network available to all agencies.

The Commission's request for comment on the PSST and NPSTC reports must be examined in the context of its National Broadband Plan. There, the Commission decided to auction the 700 MHz D Block clear of any partnership obligation to the PSBL. It would, instead, promote a cross band interface standard and pursue several initiatives to deploy and assist a 700 MHz public safety network.⁵ The Commission determined that the public private partnership structure is not able to fulfill the objective of bringing about advanced services to public safety throughout the United States.

With the financial and deployment underpinning of a national network no longer possible from the public private partnership, the National Broadband Plan envisions that federal, state and local resources will build out the 700 MHz public safety segment.⁶ Recognizing the history of public safety spectrum and the critical needs for an effective and interoperable national network,

⁴ *Connecting America: The National Broadband Plan*, Federal Communications Commission (March 16, 2010).

⁵ National Broadband Plan at page 316.

⁶ National Broadband Plan at page 318.

the Commission will establish ERIC and an advisory council to chart and oversee the deployment of regional networks and their relationship to the 700 MHz commercial spectrum. ERIC will develop common standards for interoperability and operating procedures to be used by the public safety entities licensed to construct, operate and use this nationwide network. To establish a common vision, the National Broadband Plan states that ERIC must exist before any licensees begin construction.⁷

It is in this context that the NPSTC and PSST reports, completed prior to the National Broadband Plan, are contrary to the reality presented by the waiver petitions and the path now set by the Commission. With the public private partnership not viable, broadband networks will be regionally based and rely on state and local investment and management under standards set by the Commission. The NPSTC and PSST reports incorrectly assume that regional agencies should be subordinate to the PSBL and lease spectrum under the terms and conditions the PSST proposes. A model where authority relied on the PSBL and D Block licensee to provide the investment to deploy and manage the network cannot survive where those resources no longer exist. Those responsible for the expenditure of public monies, ensuring that the network responds and can be relied upon and adherence to the Commission's rules--state and local agencies-- should be accountable directly to the Commission, not the PSBL.

The PSBL has no authority to lease its spectrum. The Commission's rules preclude its license from being disaggregated or partitioned; the PSBL may not voluntarily assign or transfer control of its license.⁸ Its proposal to remove these restrictions should be rejected.

⁷ National Broadband Plan at page 317.

⁸ Section 90.528(e) and (f) of the Commission's rules.

Responsibility for the network should flow from the source of its investment and management.⁹ With public investment the only path to deploy an advanced service nationwide system, state and local agencies, committing significant financial obligations and expertise, should not have the PSBL between it and the Commission.

The PSST and NPSTC proposal that agencies pay fees to the PSST is also counter to the model that has emerged from the National Broadband Plan. There is no statutory authority for such an assessment and which belies the historic precept that public agencies do not pay for spectrum use through fees or auctions. The Commission's long established fidelity with state and local governments would be betrayed.

NPSTC's technical recommendations addressing LTE in the public safety environment are a valuable contribution profiling LTE's vitality and the challenges ahead. Charlotte agrees with comments noting the tentative character of the technology's capability in this environment and the number of technical and operational complexities remaining.¹⁰ It is important to recognize that several operational functions rely on technical standards needing further development.¹¹ The PSST notes concern regarding the limited commitment of commercial carriers, chip makers, and device manufacturers to include capability to access LTE Band 14 (D Block/PS Block) in devices available in the near future. It also notes that the NPSTC Technical

⁹ The PSST and NPSTC recommendations relating to proposed lease terms and conditions are contrary to state and local laws. The proposed term sheet, at Appendix C, requires that a state or local agency indemnify the PSBL from third party claims and that the state or local agency agree to be subject to specific performance (injunction) relief. Both concepts are contrary to fundamental elements of sovereign immunity, which are determined by state law.

¹⁰ Comments of the Telecommunications Industry Association (April 6, 2010) at pages 6-7 with regard to roaming capabilities.

¹¹ Comments of Motorola, Inc (April 6, 2010) at 3-4.

Recommendations addressing System Identifiers require additional discussion with commercial carriers.¹²

These legitimate concerns move to a broader challenge as standards development for commercial and public safety sectors are vastly different¹³ and where details are crucial. Yet there is a lack of clarity if not information specific to the public safety sector. In examining not only the NPSTC and PSST technical recommendations, but the universe of technical challenges, the Commission's path, through ERIC and its advisory council, should pursue a process capable of understanding where current standard processes are in actually serving public safety. There is a core need to bring clarity and set a roadmap by which networks can be pursued.¹⁴ A difficult aspect of this challenge is balancing the need to assure connectivity within and across regions while not delaying agencies ready to deploy. The Commission, working with public safety agencies, other federal agencies, manufacturers, services providers, standard setting organizations and others, is best able to lead this challenge.

Charlotte endorses the path the Commission presents in its National Broadband Plan. Through ERIC and its advisory council, it can pursue a comprehensive examination of the technologies available for the 700 MHz band, with focus on LTE. It can unite the public investment ready to be committed to broadband networks within a framework ensuring connectivity in and across regions while being flexible to accommodate the needs of individual

¹² *Ex Parte* Letter of the Public Safety Spectrum Trust, December 15, 2010 at page 4.

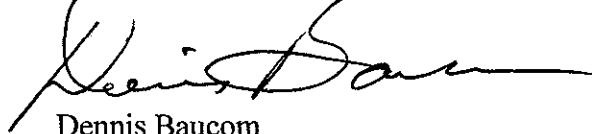
¹³ Comments of Harris Corporation (April 6, 2010) at 5-6.

¹⁴ Comment of the Government of the District of Columbia, Chief Technology Officer (April 6, 2010) at 3-4.

agencies to pursue the most effective technologies, applications and services. Charlotte commits to participating in the process.

Respectfully submitted,

City of Charlotte, North Carolina

A handwritten signature in black ink, appearing to read "Dennis Baucom", written over a horizontal line.

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